

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

-against-

ANGEL PADILLA,

Defendant.

No. 1:94-CR-0313 (CSH)

JUNE 20, 2024

ORDER ON LETTER MOTION [Doc. 954] AND CERTIFICATE OF APPEALABILITY

HAIGHT, Senior District Judge:

The Court is in receipt of the Letter Motion [Doc. 954] of Sarah Baumgartel, Assistant Federal Defender, filed on June 7, 2024, on behalf of Defendant Angel Padilla. In that motion, Padilla requests that the Court either refrain from filing an Amended Judgment or issue a Certificate of Appealability as to that judgment. In response, the Court notes that it has contemporaneously filed the Amended Judgment, consistent with its Ruling [Doc. 946] on Defendant's Motion for Habeas Corpus Relief to Vacate His Sentence under 28 U.S.C. § 2255 [Doc. 897]. In that Ruling, the Court granted in part and denied in part Padilla's motion. Specifically, the Court vacated Padilla's convictions on Counts 60 and 78, because they rested solely on crimes of violence as defined by the "residual clause" of the firearms statute, 18 U.S.C. § 924(c)(3)(B), which the Supreme Court held retroactively unconstitutional in *United States v. Davis*, 588 U.S. 445 (2019). Based on *Davis* and its progeny, both the government and Padilla concurred as to the vacatur of these two counts. As to other challenged counts, the Court denied Padilla's motion [Doc. 897].

At the present time, the Court DENIES Padilla's request to "reconsider its disposition of [Padilla's] § 2255 motion" and "refrain from issuing a final opinion and judgment on this motion." Doc. 954, at 2. However, in light of the United States Supreme Court's pending decision in *Delligatti v. United States*, No. 23-825, __ S.Ct. __, 2024 WL 2805741 (U.S. June 3, 2024)—which Padilla represents may bear on whether his other § 924(c) convictions are subject to vacatur—the Court GRANTS Padilla's request that a Certificate of Appealability be issued with respect to the Amended Judgment. Pursuant to 28 U.S.C. § 2253(c), an appeal from the Amended Judgment on the merits may be taken in good faith, if so advised, following the United States Supreme Court's ultimate decision in *Delligatti*.

Accordingly, Padilla's Letter Motion [Doc. 954] is GRANTED in part and DENIED in part.

It is SO ORDERED.

Dated: New York, New York
June 20, 2024

/s/Charles S. Haight, Jr.
CHARLES S. HAIGHT, JR.
Senior United States District Judge